

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHAEL JOHNSON,

Plaintiff,

-v.-

Civil Action No.
9:11-cv-188 (GLS/DRH)

WILLIAM D. BROWN, Supt., Eastern Correctional
Facility; CAPTAIN JOHN DOE; SGT. JOHN DOE

,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

MICHAEL JOHNSON
04-A-4042
Plaintiff, *pro se*
Elmira Correctional Facility
P.O. Box 500
Elmira, New York 14902

FOR THE DEFENDANTS:

HON. ERIC T. SCHNEIDERMAN
New York State Attorney General
The Capitol
Albany, New York 12224

C. HARRIS DAGUE, ESQ.
Assistant Attorney General

GARY L. SHARPE,
DISTRICT COURT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-

Recommendation by Magistrate Judge David R. Homer, duly filed September 14, 2011. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

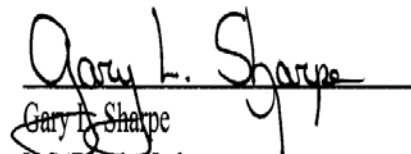
ORDERED, that the Report-Recommendation of Magistrate Judge David R. Homer filed September 14, 2011 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED that defendant Brown's motion to dismiss the complaint (Dkt. No. 11) is DENIED AS MOOT upon the filing of plaintiff's signed second amended complaint and it is further

ORDERED, that the Clerk of the Court is directed to serve a copy of this order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED

Dated: September 29, 2011
Albany, New York


Gary L. Sharpe
U.S. District Judge